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*Attorneys for Defendants Frank Petosa,
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MELISSA HUTCHISON aka PHOENIX
MARIE, an individual,

Case No.: 2:24-cv-00673-GMN-BNW

Plaintiff,

STATEMENT REGARDING REMOVAL

vs.

ETHICAL CAPITAL PARTNERS, a foreign entity; AYLO PREMIUM LTD., a foreign corporation; DM PRODUCTIONS, a foreign entity; DIGITAL PLAYGROUND, a foreign entity; MIND GEEK USA INCORPORATED, a foreign entity; MG PREMIUM LTD, a foreign entity; DM PRODUCTIONS, a foreign entity; DIGITAL PLAYGROUND, a foreign entity; DANNY MARTIN aka DANNY D, an individual; FRANK PETOSA an individual; RYAN HOGAN, an individual; MICHAEL WOODSIDE, an individual; and DOES 1 through 50,

Defendants.

Under the Court’s Minute Order in Chambers (ECF No. 4), Defendants Frank Petosa, Ryan Hogan, and Michael Woodside (collectively, the “Removing Defendants”) state as follows:

1. The date on which you were served with a copy of the Complaint.

ANSWER: The Removing Defendants have not been served with a copy of the Complaint.

2. The date on which you were served with a copy of the Summons.

ANSWER: The Removing Defendants have not been served with a copy of the Summons.



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1 **3. In removals based on diversity jurisdiction, the names of any served defendants
2 who are citizens of Nevada, the citizenship of the other parties and a summary of defendant's
3 evidence of the amount in controversy:**

4 **ANSWER:**

5 a. Citizenship of Plaintiff. As alleged in the Complaint, and to the Removing
6 Defendants' knowledge at the time of the filing of the Complaint and as of the date of the filing of
7 this Statement Regarding Removal, Plaintiff Melissa Hutchison aka Phoenix Marie ("Plaintiff")
8 was and is an individual and domiciliary of Clark County, Nevada.

9 b. Citizenship of Defendant Ethical Capital Partners. Defendant Ethical Capital
10 Partners is incorrectly named in the Complaint. Its correct name is Ethical Capital Partners Ltd.,
11 and it is a business company incorporated and existing in the British Virgin Islands with its principal
12 place of business at 2nd Floor Water's Edge Building, Wickham's Cay II, Road Town, Tortola,
13 VG1110, British Virgin Islands. Plaintiff alleges that Ethical Capital Partners is a "foreign
14 corporation." *See* Complaint ¶ 2; *see also* Caption ("Ethical Capital Partners, a foreign entity").

15 c. Citizenship of Defendant Aylo Premium Ltd. Defendant Aylo Premium Ltd.
16 is incorrectly named in the Complaint. Its correct name is Aylo Premium Ltd. Aylo Premium Ltd
17 is a foreign private company organized under the laws of the Republic of Cyprus, with its principal
18 place of business in Cyprus. Plaintiff alleges that Aylo Premium Ltd. is a "foreign corporation."
19 *See* Complaint ¶ 3; *see also* Caption ("Aylo Premium Ltd., a foreign corporation").

20 d. Citizenship of Defendant MindGeek USA Incorporated. Defendant
21 MindGeek USA Incorporated is a Delaware corporation, with its principal place of business located
22 in 21800 Oxnard Street, Ste. 150, Woodland Hills, CA 91367. Plaintiff alleges that MindGeek USA
23 Incorporated is "a corporation organized and existing in the State of Delaware." *See* Complaint ¶ 4;
24 *see also* Caption ("MindGeek USA Incorporated, a foreign entity").

25 e. Citizenship of Defendant MG Premium Ltd., d/b/a Brazzers. Defendant MG
26 Premium Ltd., d/b/a Brazzers is incorrectly named in the Complaint. Its correct name is MG
27 Premium Ltd, d/b/a/ Brazzers. It is a private company organized under the laws of the Republic of
28 //

1 Cyprus with its principal place of business in Cyprus. *See* Caption (“MG Premium Ltd, a foreign
2 entity”).

3 f. Citizenship of Defendant DM Productions. Defendant DM Productions is
4 incorrectly named in the Complaint. Its correct name is DM Media Productions, Ltd. DM Media
5 Productions, Ltd. is a foreign entity incorporated under the laws of the United Kingdom with its
6 principal place of business at 1 Barling Close, Chatham, Kent ME5 9RL, England. *See* Caption
7 (“DM Productions, a foreign entity”).

8 g. Citizenship of Defendant Digital Playground. Defendant MG Premium Ltd.,
9 d/b/a Brazzers does business under the name “Digital Playground,” but there is no separate entity
10 known as “Digital Playground.” For the purposes of diversity jurisdiction, Defendant Digital
11 Playground has the same citizenship as Defendant MG Premium Ltd. *See supra,* ¶ 12; *see also*
12 Caption (“Digital Playground, a foreign entity”).

13 h. Citizenship of Defendant Frank Petosa. Defendant Frank Petosa is an
14 individual domiciled in Quebec, Canada. *See* Complaint ¶ 8.

15 i. Citizenship of Defendant Ryan Hogan. Defendant Ryan Hogan is an
16 individual domiciled in Quebec, Canada. *See* Complaint ¶ 9.

17 j. Citizenship of Defendant Michael Woodside. Defendant Michael Woodside
18 is an individual domiciled in Quebec, Canada. *See* Complaint ¶ 10.

19 k. Citizenship of Defendant Danny Martin. Defendant Danny Martin aka
20 Danny D is an individual domiciled in London, England. *See* Complaint ¶ 11.

21 l. Citizenship of the “Doe Defendants.” The citizenship of unknown and
22 fictitiously named “Doe” defendants is disregarded for the purposes of evaluating diversity
23 jurisdiction. *See* 28 U.S.C. § 1441(b)(1); *McCabe v. Gen. Foods Corp.*, 811 F.2d 1336, 1339 (9th
24 Cir. 1987) (holding that district court properly disregarded the presence of unidentified “Doe”
25 defendants when evaluating diversity jurisdiction). The consent of the fictitious “Doe” defendants
26 is not required because they have not yet been served. *See* 28 U.S.C. § 1446(b)(2)(A) (requiring
27 only the consent of all defendants that have been “properly joined and served”).

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1 m. Amount in Controversy. The amount in controversy must exceed \$75,000,
 2 exclusive of interest and costs, for the Court to have diversity jurisdiction under 28 U.S.C. § 1332.
 3 When measuring the amount of controversy, courts must consider all recoverable damages,
 4 including damages for emotional distress, punitive damages, and attorneys' fees authorized by
 5 statute or contract. *See Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005). The amount
 6 in controversy is not a projection of liability, but the amount "at stake" in the litigation. *Chavez v.*
 7 *JPMorgan Chase*, 888 F.3d 413, 418 (9th Cir. 2018). Without admitting the validity of Plaintiff's
 8 claims for relief, which are denied by the Removing Defendants entirely, the amount in controversy
 9 exceeds \$75,000.00, exclusive of interest and costs. Plaintiff seeks, *inter alia*, general and special
 10 damages in the amount of over \$10 million and for punitive damages in an amount of over \$20
 11 million. Complaint, Request for Relief, p. 20.

12 **4. If your notice of removal was filed more than thirty (30) days after you first
 13 received a copy of the summons and complaint, the reason removal has taken place at this
 14 time and the date you first received a paper identifying the basis for removal.**

15 ANSWER: The Removing Defendants have not been served with a copy of the Summons
 16 and Complaint.

17 **5. In actions removed on the basis of the court's jurisdiction in which the actions
 18 in state court was commenced more than one year before the date of removal, the reasons this
 19 action should not summarily be remanded to the state court.**

20 ANSWER: The Removing Defendants removed the case less than one year after Plaintiff
 21 filed her Complaint, which occurred on February 15, 2024.

22 **6. The name(s) of any defendant(s) known to have been served before you filed
 23 the notice of removal who did not formerly join in the notice of removal and the reasons they
 24 did not.**

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28 ///

ANSWER: The Removing Defendants are unaware of any defendants who have been served with a copy of the Summons and Complaint.

Dated this 23rd day of April, 2024.

McDONALD CARANO LLP

By: /s/ Rory T. Kay

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CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2024, a copy of the foregoing **STATEMENT REGARDING REMOVAL** was filed electronically through the Court's CM/ECF system, which causes service upon all counsel registered thereon.

/s/ Cara Mia Gerard
An employee of McDonald Carano LLP



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